

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

COMMENTS of COBANK, ACB

CoBank, ACB (“CoBank”) hereby submits these comments in response to the Notice of Inquiry and Notice of Proposed Rulemaking, released April 21, 2010.¹

CoBank² is a cooperative bank with more than \$3.3 billion in loan commitments to more than 200 rural communication companies nationwide. These commitments by sector are comprised of wireline (73%), cable television (15%) and wireless (12%). In addition, CoBank has syndicated \$750 million in communication loans to the Farm Credit System, a unique

¹ *Notice of Inquiry and Notice of Proposed Rulemaking*, WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337 (re. April 21, 2010) (*Public Notice*)

² CoBank is a \$60 billion cooperative bank serving vital industries across rural America. We provide loans, leases, export financing and other financial services to agribusinesses and rural power, water and communications providers in all 50 states.

CoBank is a member of the [Farm Credit System](#), a \$213 billion nationwide network of banks and retail lending associations chartered to support the borrowing needs of U.S. agriculture and the nation's rural economy. In addition to serving its direct borrowers, the bank also provides wholesale loans and other financial services to affiliated Farm Credit associations and other partners across the country.

Headquartered outside Denver, Colorado, CoBank serves customers from regional banking centers across the U.S. and also maintains an international representative office in Singapore. For more information about CoBank, visit the bank's web site at www.cobank.com.

network of cooperative, borrower-owned lending institutions that are exclusively dedicated to serving as a critical source of debt capital to rural America and the vital industries that support rural America.

BACKGROUND

CoBank's mission is to serve rural America. CoBank's customers include local, regional and national agricultural cooperatives, rural communications, energy, water and waste disposal systems, Farm Credit association and other businesses serving rural America. Our rural customer's ability to thrive and compete in a world market depend on reliable and affordable basic essential services – water, electric, telephone and now broadband. CoBank supports the mission of the National Broadband Plan (NBP): to create a high-performance America – a more productive, creative, and efficient America in which affordable broadband is available everywhere and everyone has the means and skills to use valuable applications. However, CoBank is concerned about the some of the proposed approaches mentioned in this NOI NOPR to achieve affordable broadband for everyone.

As we have previously commented, with nearly a century of experience serving rural markets, CoBank has deep experience financing broadband in rural America and understands the challenges of deploying ubiquitous broadband. We get the fact that the challenge of lending to rural utilities is that they have fewer customers per mile than urban areas, especially communication companies that have an obligation to be the Carriers-of-Last-Resort (COLR).

The key challenge of ensuring that all people of the United States have access to affordable broadband capability is to recognize that funding the building and maintaining of networks to provide broadband to rural America costs more than 10 times to provide local

connections and more than 20 times for transit and transport costs than in urban areas.³ In high-cost rural areas, subscriber densities are rarely high enough to ensure the level of cash flow needed to provide a return on capital (equity and debt) associated with deployment of broadband. Thus a sufficient and sustainable cost recovery mechanism is imperative to support the financing of ubiquitous rural broadband. There is no silver bullet to avoid this reality. Unless there is a sufficient and sustainable cost recovery mechanism, no financing method (e.g. loan, loan guarantee, revolving loan, or a one-time grant) will sustain a rural broadband network in the long term. The broadband network is a dynamic infrastructure, it is not static, and needs ongoing upgrades and maintenance. While the existing cost recovery mechanisms need revision to support broadband, do not discount the success of these tried and true mechanisms that have enabled most of our rural communications customers to successfully deploy broadband to rural areas via a variety of technologies and business plans.

CoBank commends the Federal Communication Commission's (the Commission) recommendation of the Connect America Fund (CAF) to support the provision of broadband communications in areas that would be unserved without such support or that depend on universal support for the maintenance of existing broadband service.⁴ CoBank welcomes the opportunity to comment on the transition from the current high-cost mechanisms to the CAF.

CoBank respectfully reminds the Commission to recognize the success of the Universal Service Fund (USF) in supporting the deployment of broadband to rural America. Don't throw the baby out with the bath water by dismissing the effectiveness of USF. The rural communications backbone that makes today's rural broadband possible would not have been

³ September 29, 2009 FCC Open Commission Meeting, National Broadband Plan Update Slideshow, pg. 44

⁴ Federal Communication Commission, *Connecting America: The National Broadband Plan*, (rel. March 16, 2010) (National Broadband Plan) at 144.

built without the support of USF. Don't underestimate the necessity for a strong rural communications backbone for national robust internet connectivity or wireless usage. Wireless, voice and data applications don't work in rural areas without a stable rural communications backbone.

We urge the Commission to focus on building on the achievements of USF to support broadband in high-cost areas because this method is the most expeditious, flexible and simple way to foster private financing of the rural broadband infrastructure.

NOTICE OF INQUIRY

MODELS WILL NOT PROVIDE A SOUND BASIS FOR FINANCING BROADBAND DEPLOYMENT

The first issue that the Commission requests comment on is on the use of a model as a competitively neutral and efficient tool for helping the Commission quantify the minimum amount of universal service support necessary to support networks that provide broadband and voice service, such that the contribution burden that ultimately falls on American consumers is limited.

Cost models are not used by lenders to make loans. Every business is different. One key lesson that CoBank has learned over the past 15 years of financing broadband deployment in high-cost areas is that each rural communications company has a different business plan and needs flexibility in financing. Broadband deployment faces a variety of challenges depending on the geographic and socioeconomic factors of the rural community and the financial strength of the company.

If the Commission adopts a cost model to determine support for high-cost areas, it will not provide the assurance a lender needs to make a loan. Private financing of broadband deployment in high-cost areas hinges on the fundamentals of loan structuring. When a financial

institution lends money to deploy broadband, the key structural element is the ability of the borrower to repay the loan. What is the risk that the bank may not be fully repaid on a timely basis? If the cost of deploying broadband is not supported by cash flow from end-users as a repayment source based on what it actually does cost – not just a hypothetical cost model - then the loan will not be viable. A stable, long term cost recovery mechanism based on actual costs creates a viable loan structure. Lenders don't lend against hypothetical costs and they don't get repaid in hypothetical dollars, so support based on a proxy cost model may not support lending to high-cost areas.

The risk of a nationwide broadband model to estimate support levels for the provision of broadband and voice service in areas that are currently served by broadband with the aid of legacy high-cost support, as well as areas that are unserved, is that disparity between service territories is too variable. It has been CoBank's experience that broadband service in rural America is too diverse to be modeled, due to the geographic, population and socioeconomic factors of a rural community and the financial strength of the communications company. The Commission will spend more time dealing with the exceptions to a national model than the actual development of a national model to determine the actual costs to deploy broadband.

The government program that has provided the most flexibility and the greatest incentive for privately financed rural broadband has been the USF. The High-Cost Fund of USF has been instrumental to supporting rural broadband to date. The CAF should be based on the principles of the High-Cost Fund for rural local exchange carriers to support broadband deployment.

The use of cost models to determine universal service support is fundamentally flawed and will not support private financing to deploy rural broadband.

MARKET-BASED MECHANISM FOR HIGH COST AREAS

The Commission seeks comments on potential approaches to providing such targeted funding on an accelerated basis in order to extend broadband networks to unserved areas, such as a competitive procurement auction.

CoBank believes that the existing system of rate-of-return regulation and the High-Cost Fund method of support for rural local exchange carriers provides the most efficient and effective system for the development of broadband networks. If the High-Cost Fund is uncapped, and the contribution base is widened, the existing cost recovery mechanisms will provide sufficient incentives for incumbent providers to deliver broadband in any presently unserved or under-served area at speeds reasonably comparable with urban subscribers. CoBank continues to believe that the incumbent rural local exchange carrier, with its COLR obligations, is best positioned to continue to deploy broadband in rural areas. If federal and state regulators exercise their oversight role properly, rate-of-return regulation will ensure that the incumbent local exchange carrier delivers broadband services in a cost effective manner. Few, if any, competitive carriers have demonstrated the capability or willingness to take on COLR obligations and provide true universal service.

While the idea of competitive auctions for this support may be ideologically attractive to some, we believe that the whole concept would be unnecessarily disruptive and fraught with administrative complexities. Rate-of-return regulation obviates the need for competition in rural areas for the purpose of reducing costs. Rural local exchange carriers have established an excellent track record of delivering a robust array of advanced telecommunications services to their subscribers. Competitive carriers should be free to provide broadband services as well, but should not be eligible to receive CAF support.

Even if a competitive auction system were implemented, it is clear that any allocation of CAF support via a competitive auction would have to be inextricably linked to COLR obligations. We have already seen the unintended consequences of allowing competitive providers to obtain support without assuming COLR obligations in the nature of runaway USF growth when Competitive Eligible Telecommunications Carriers were given access to the fund under the identical support rule. If COLR obligations are required of any carrier winning a competitive auction to serve a rural area, it seems unlikely that competitive carriers would bid as developing the infrastructure to assume COLR obligations would mean essentially duplicating the incumbent's network. Even wireless carriers would be forced to greatly expand their network of towers and related equipment to accept COLR obligations and we think this would make it cost prohibitive for them in many, if not most, rural areas. Because of the logical tying of COLR obligations to receipt of CAF support, the incumbent would be the most logical bidder and likely be the ultimate winner under a competitive auction, anyway. Yet, the uncertainty surrounding such a process would negatively affect the incumbent's ability to obtain capital, thereby impeding its ability to deliver broadband to its subscribers in timely manner. For these reasons, CoBank believes that the Commission should not implement a competitive auction regime for the allocation of CAF support. Instead, it should simply extend the existing rules governing eligibility for support to the incumbent rural local exchange carrier on an exclusive basis. We believe that the notion of competitive auctions to allocate CAF support is essentially a solution in search of a problem that does not exist.

III. NOTICE OF PROPOSED RULEMAKING

CONTROLLING THE SIZE OF THE HIGH-COST PROGRAM

The Commission seeks comment on specific proposals to cap and cut the legacy high-cost programs and realize saving that can be shifted to targeted investment in broadband infrastructure.

For rural residents, farmers, and businesses that need broadband capacity to support the future demands of commerce, health care, education, energy and public safety, the cost of supporting a stable rural communications backbone to enable the use of wireless, voice and data applications should be shared by all those who benefit from America's rural, agricultural economy. Americans have benefited from the principle that universally available and affordable telephone service benefits rural, urban and suburban residents – it is now time to transition from universal telephone to universal broadband. The cost of not supporting universal service for broadband will far exceed the cost of providing it.

The unfortunate key disconnect in the NBP is that affordable broadband for all Americans cannot be achieved without increasing the funding spent to support broadband deployment. CoBank does not support the Commission's recommendation to cap the legacy high-cost support provided to incumbent local exchange carriers. CoBank suggests that the CAF should be financed based on a combination of public network connections and working telephone numbers, including all broadband connections in service, regardless of technology. The cost-benefits of deploying broadband to rural America by broadband far outweigh initial investment costs.

Specific Steps to Cut Legacy High-Cost Support

The Commission seeks comment on specific steps to cut legacy high-cost support.

CoBank is concerned about shifting rate-of-return carriers to incentive regulation because incentive regulation only works for companies that are consolidators. Rate-of-return carriers tend to be small companies with relatively few subscribers, located in high-cost areas. Incentive regulation would result in higher costs to rural customers, for traditional as well as broadband services, that are well above average for communication services in urban areas. Incentive regulation rewards profit taking, it does not reward serving high-cost rural areas. Should rate-of-return be phased out, it is imperative that existing incentive regulation be modified to provide carriers in high-cost, low subscriber areas with incentives to invest in the network and the ability to repay debt. Rate-of-return carriers have been successfully deploying broadband, why would the Commission dismantle a successful, efficient method of deploying broadband to high-cost areas?

CoBank believes that growth in the High-Cost Support is perfectly natural given the NBP's anticipated transition of universal service from voice telephony to broadband. Broadband networks are expensive to construct and the on-going expenses associated with maintaining those networks do not subside upon completion of the project. In order to deploy robust broadband to all rural Americans, it is quite natural to expect the High-Cost Fund to grow. The Commission should not worry about growth in High-Cost Fund, but rather, concentrate on widening the contribution base to include companies who use rural networks to generate income, yet do not pay into the fund to support those networks. CoBank believes that the High-Cost Fund should be uncapped and per-line support should not be frozen. Only by allowing the High-Cost Fund to grow as needed to support investments in rural broadband networks will the goal of ubiquitous broadband at speeds and rates reasonably equivalent to urban subscribers be achieved.

CoBank supports the elimination of Competitive Eligible Telecommunications Carriers High-Cost Support.

CONCLUSION

A Connect America Fund that ensures that all people of the United States have access to affordable broadband capability must recognize the need for a long term, sufficient, stable cost recovery mechanism for high-cost rural areas. In high-cost rural areas, subscriber densities are rarely high enough to ensure the level of cash flow needed to provide a return on capital (equity and debt) associated with deployment and maintenance of broadband, so a sufficient and sustainable cost recovery mechanism is imperative to support the financing of ubiquitous broadband. CoBank would immediately be able to increase our rural incumbent local exchange carrier's access to capital by 30-40% if the Connect America Fund is structured like the USF model to support broadband.

We respectfully urge the Commission to focus on building on the achievements of USF to support broadband in high-cost areas because this method is the most expeditious, flexible and simple way to foster private financing of the rural broadband infrastructure.

Respectfully submitted,

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